Fisheries and Oceans Canada | Pêches et Océans Canada

A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast

Canada

Published by:

Communications Branch
Fisheries and Oceans Canada
Ottawa, Ontario
K1A 0E6

DFO 2004-64

© Her Majesty the Queen in Right of Canada 2004
Cat. No. Fs23-443/2004
ISBN 0-662-68036-7

Printed on recycled paper

Photo Credit. Tom Fowler: Cover (3 boxed photos), page 1, page 7, page 17, page 23, page 35

Table of Contents

Message from the Minister vii

Introduction 1

1.1 The Atlantic Fisheries Policy Review **1**

1.2 The Need for a Policy Review in Atlantic Fisheries **2**

1.3 Fisheries Management Challenges **3**

1.4 Aboriginal Fisheries **5**

1.5 AFPR Consultations **5**

1.6 Organization of the Framework **6**

Vision for the Management of the Atlantic Fisheries 7

2.1 The Vision **7**

2.2 Objectives **8**

2.3 Principles **9**

Conservation and Sustainable Use 11

3.1 Policy Context **11**

3.2 Policy Strategies **12**

3.2.1 Developing and Adopting a Comprehensive Risk Management Framework that Incorporates Precaution 12

3.2.2 Developing and Adopting Ecosystem-based Management 13

3.2.3 Conducting Fisheries within an Enforceable Regulatory Framework 14

3.2.4 Promoting a Conservation Ethic and Responsible Harvesting Operations 16

Self-reliance 17

4.1 Policy Context **17**

4.2 Policy Strategies **18**

4.2.1 Clarifying the Role of Fisheries and Oceans Canada in Supporting Viable Coastal Communities 18

4.2.2 Providing Resource Users with a Greater Role in Shaping Social and Economic Objectives 19

Stable and Transparent Access and Allocation Approach 23

5.1 Policy Context **23**

5.2 Policy Strategies **24**

5.2.1 Clarifying the Process and Criteria for Determining Best Use and Acknowledging Legitimate Uses 24

5.2.2 Establishing Decision-making Guidelines for Commercial Access and Allocation 25

5.2.3 Stabilizing Sharing Arrangements in Established Commercial Fisheries 28

Shared Stewardship 29

6.1 Policy Context **29**

6.2 Policy Strategies **30**

6.2.1 Adopting a More Inclusive Approach to Policy Planning 30

6.2.2 Enabling Resource Users to Assume More of a Role in Operational Decisions 31

6.2.3 Facilitating Aboriginal Participation in Policy Planning and Decision Making 32

6.2.4 Building Capacity to Enable Resource Users to Take on New Responsibilities 32

Conclusion 35

7.1 Clear Vision and Objectives **35**

7.2 Moving Forward **35**

7.2.1 Scope of the Framework 35

7.2.2 Collaboration on Policy Framework for the Management of the Atlantic Fisheries 36

7.2.3 Phase II 36

7.2.4 The Path Ahead 37

Appendices

Appendix 1 – Source Documents 39

Appendix 2 – Glossary 41

Message From The Minister

As Canada's Minister of Fisheries and Oceans, it is my pleasure to present "*A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast*".

The Atlantic Fisheries Policy Review was launched in 1999 to modernize the policy framework that governs how the Atlantic fisheries are managed. The process included consultations with provincial and territorial governments, Aboriginal groups, the fishing industry and others. It is the most extensive public consultation process ever held by Fisheries and Oceans Canada.

I would like to thank the hundreds of participants who made their voices heard during these consultations. This policy framework is the culmination of their comments and recommendations and provides the foundation to effectively address the long-term needs they have identified.

As you will read in the pages that follow, the policy framework presents clear objectives to guide decision-making in the Atlantic fishery. It places conservation of the resource as the priority, sets the path for greater industry self-reliance, establishes transparent rules-based processes for decision-making and encourages a greater role for resource users and others.

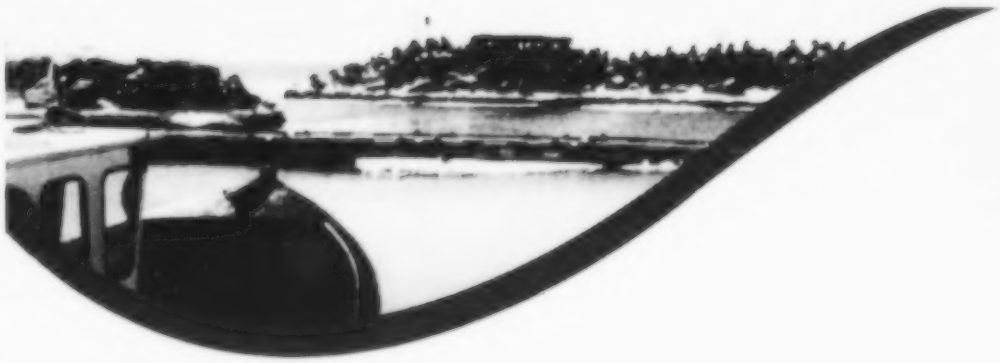
I am confident that with sustained effort by all levels of government and the fishing industry itself, we will be able to make real and lasting change, at a pace set to match the readiness of industry to implement the framework.

Thank you for your interest in the Atlantic fisheries and I look forward to working with you as we implement the policy framework.

Geoff Regan

The Honourable Geoff Regan, P.C., M.P.
Minister of Fisheries and Oceans

March 2004



Introduction

1.1 The Atlantic Fisheries Policy Review

The objective of the Atlantic Fisheries Policy Review (AFPR) has been to modernize the policy framework that governs how the Atlantic fisheries are managed. The policy framework presented in this document, is the culmination of Phase I of the AFPR, which involved a careful examination of current management policies and widespread public consultations. The Atlantic fisheries have been the economic backbone of hundreds of coastal communities for centuries. Fishers whose primary activity is to commercially harvest fish from the Atlantic Ocean have traditionally been, and will likely remain, the main users of fisheries resources. Those commercial harvesters are part of a wider community of resource users who are authorized by the Minister of Fisheries and Oceans to access fisheries resources. Together with holders of commercial licences, resource users include quota holders, Aboriginal groups with communal licences, processors who hold fishing licences, recreational fishers and aquaculturists who use wild fish stocks.

The Atlantic Provinces, Quebec and Nunavut

In September 1999, federal, provincial and territorial governments signed the *Agreement on Interjurisdictional Cooperation with Respect to Fisheries and Aquaculture*. The interjurisdictional agreement commits governments to work together to maintain ecologically sustainable fisheries resources and habitats, and to develop ecologically sustainable and economically viable fisheries and aquaculture industries. Consequently, the Atlantic provinces, Quebec and Nunavut have been involved in setting the directions for this policy framework and are invited to continue to participate in the fisheries management decision-making processes that will lead to, and result from, its implementation.

The fishing industry comprises more than just resource users. It also includes other processing companies, plant workers, fish buyers as well as crew members of fishing vessels. Together they play a crucial role in ensuring the quality of the fish products delivered to Canadian and foreign markets.

Atlantic Canada is endowed with a continental shelf that provides valuable and abundant fisheries resources that, if properly managed, will provide sustainable economic opportunity for generations to come. Despite having weathered a difficult period of adjustment and restructuring, the fisheries continue to be an important contributor to employment, income and economic opportunity.

This framework is a first step in improving fisheries management. It offers a new vision of how the Atlantic fisheries can be managed and proposes four objectives to realize this vision. The two core objectives—conservation and sustainable use, and self-reliance—will be achieved by giving resource users a stronger role in the stewardship of the resource and by making the access and allocation decision-making process more transparent and predictable. A series of nine principles designed to guide future decision making underpin this framework. In the long term, the role of Fisheries and Oceans Canada will evolve from one taken up with day-to-day management of fleets and fishing activities to one concerned primarily with developing policy, setting direction and evaluating performance.

Guided by the vision, objectives and principles proposed in this new policy framework, Phase II of the AFPR will focus on putting this framework into action by developing and implementing specific policies or programs and designing new processes, including initiatives to address

particular issues such as the stabilization of sharing arrangements in established commercial fisheries. Phase II will also involve examining possible legislative implications of some of the proposals. Continuing public discussions and consultations will support this work.

This policy framework provides enough direction to guide whatever legislative reform may be required to implement it. Since it builds on fisheries management practices developed in recent years, much of the framework can be implemented without modifying current laws.

1.2 The Need for a Policy Review in Atlantic Fisheries

Fisheries and Oceans Canada's Vision

Safe, healthy, productive waters and aquatic ecosystems, for the benefit of present and future generations, by maintaining the highest possible standards of:

- service to Canadians;
- marine safety and environmental protection;
- scientific excellence; and
- conservation and sustainable resource use.

Fisheries and Oceans Canada's mandate, as reflected in its vision, is to administer policies and programs that support Canada's ecological, scientific and socio-economic interests in oceans and inland waters; to lead and facilitate federal policies and programs concerning oceans; and to ensure safe, effective and environmentally sound marine services responsive to the needs of Canadians in the global economy. Managing and protecting Canada's fisheries resources is a fundamental aspect of this mandate. The mandate is addressed through a set of domestic policies and participation in international organizations that administer treaties and agreements affecting conservation and allocations to Canadians from internationally managed fish stocks. This framework focuses on domestic aspects of fisheries management.

The last comprehensive review of fisheries management policy for the Atlantic fisheries took place in the early 1980s. Since then, there have been major changes in the fishing industry, in government structures and programs, in the abundance of fish and in the legal context for Aboriginal participation in the fisheries. Although several policies have been established in response to particular issues, the AFPR is the first comprehensive attempt to develop a unified direction and objectives for the management of Atlantic fisheries.

The department's policy priorities for the Atlantic fisheries have tended to reflect the circumstances of the day. In the 1970s, the priorities were to establish control over fisheries in Canadian waters, to extend fisheries management capabilities throughout the 200-mile Exclusive Economic Zone (EEZ), and to expand the capacity of the Atlantic fishing industry to harvest and process the resources within the EEZ. In the 1980s, the focus was on limiting the growth of harvesting and processing capacity. Policies were also developed to regulate the different fleet sectors and their interaction, to promote the independence of inshore fishers and to limit the concentration of ownership of fishing licences.

Policy in the 1990s was shaped by the collapse of groundfish stocks and a focus on fiscal responsibility. During this period, participation in the commercial fisheries was reduced through federally funded licence and early retirement programs. More responsible fishing practices, including selective harvesting methods to reduce by-catch, were also encouraged. The special adjustment programs developed during this period to assist affected fishers have now ended.

Despite the collapse of groundfish stocks, the industry has experienced good overall economic performance. During the 1990s, the value of both landings and exports has increased by more than 50 percent because of increases in valuable shellfish landings.

Co-management means the sharing of responsibility and accountability for results between Fisheries and Oceans Canada and resource users, and will eventually also encompass the sharing of authority for fisheries management.

The 1990s also saw the beginning of formalized co-management of the fisheries, the adoption of policies to accommodate increased Aboriginal participation in the fisheries and a move away from a strictly top-down approach to fisheries management. In addition, the department implemented a new licensing policy and began to recover the costs of some of its services. It also began making greater use of such new management tools as individual quotas or enterprise allocations. Participants in the fishing industry also modified their approach to fisheries conservation through the adoption of the Code of Conduct for Responsible Fishing Operations, and industry associations sought to promote the professionalization of fish harvesters.

Although the century-old *Fisheries Act* still remains the primary legislative basis for fisheries management, the adoption of the *Oceans Act* in 1997 extended the department's role in managing the use of marine resources and habitats. The *Oceans Act* codifies the department's policy in support of the sustainable development and integrated management of ocean habitats and resources. The integrated management approach recognizes that there are many commercial and non-commercial interests in the coastal and marine environment and aims to equitably balance these to realize sustainable benefits to all Canadians, especially coastal communities. The fisheries represent one sector within a broader oceans-centered planning framework, as outlined in *Canada's Oceans Strategy*.

Although commercial harvesting is the prevailing use of fisheries resources on the Atlantic coast, the management of fisheries has to accommodate a growing number of uses that also contribute to the Canadian economy. Such activities include aquaculture, recreational fishing and marine tourism.

1.3 Fisheries Management Challenges

Threats to Conservation

Conservation is defined as sustainable use that safeguards ecological processes and genetic diversity for present and future generations.

Despite advances in the development of sustainable fisheries over the last decade, certain problems may prevent improved management of the fisheries and threaten to undermine the strong economic performance made possible by increases in shellfish landings. There are continuing threats to conservation and stock rebuilding in some fisheries. In spite of the moratoria imposed on Northern cod and other groundfish fisheries, many stocks do not seem to be recovering. As well, current levels of harvesting mortality for shellfish are undesirably high in some areas, and decreases in the lucrative landings of shellfish are evident in some instances. Many fleets are still simply too large given the availability of resources.

Excess Participation and Impediments to Economic Viability

In this document **resource users** include holders of commercial licences, quota holders, Aboriginal groups with communal licences, processors who hold fishing licences, recreational fishers and aquaculturists who use wild fish stocks.

The problem of excess participation can cause low profitability in many fisheries and is compounded by the lack of alternate economic opportunities in some regions. This can result in situations where communities are excessively dependent on the fisheries for their survival and are unable to weather the effects of a sudden reduction in fisheries resources. A downturn in the fisheries can therefore lead to conflict among resource users, pressure to compromise conservation objectives and recurring demands for increased access at the expense of other resource users. In several fisheries, the department has designed a complex regulatory system with associated high management costs to better control fishing activities. However, these rules are increasingly difficult to enforce and often, fishers and others raise concerns over inadequate monitoring and limited compliance.

Access means the opportunity to harvest or use fisheries resources, generally permitted by licences or leases issued by Fisheries and Oceans Canada under the authority of the Minister of Fisheries and Oceans. The department must take Aboriginal and treaty rights to fish into account when providing these opportunities.

Allocation refers to the amount or share of the fisheries resource and/or effort that is distributed or assigned by the Minister of Fisheries and Oceans to those permitted to harvest the resource.

Best use decisions concern access and allocation of fisheries resources among different uses. They also involve the determination of the particular uses of a fisheries resource that will generate the greatest possible public good or best serve the interests of all Canadians.

Capacity includes individual and organizational knowledge, skills and resources needed for resource user groups and their members, as well as other interested parties, to be involved in decision-making processes. It also includes the conditions necessary for these organizations to participate in decision-making processes.

Ineffectiveness of Top-Down Management

There has been a growing recognition of the fact that a more participatory approach to decision making, as opposed to a strictly top-down approach to fisheries management has a greater chance of success, particularly as it pertains to conservation. Under a strictly top-down approach, resource users have little say in the policies that are governing their activities. As a result, they are unwilling to accept responsibility for the outcomes of fisheries management decisions and often neglect to supply the data required by resource managers to ensure the sustainable use of fisheries resources.

Realistically, resource conservation is very difficult unless resource users also take responsibility for it. While the department must continue to be responsible for sustainable use and implement clear and enforceable management rules, Fisheries and Oceans Canada must also work with resource users to devise incentives that will encourage them to make responsible choices. Resource users must, for example, be given assurance that they will benefit from future returns arising from today's conservation efforts and that decisions are supported by clear and consistent criteria for access and allocation. Strengthening incentives to support conservation can also be expected to advance self-reliance among resource users, both now and in the future. As resource users become more involved in decision making and assume certain fisheries management responsibilities, they will become more accountable for their actions and for the environmental and economic sustainability of the Atlantic fisheries.

Uncertainty in Access and Allocation

Ongoing uncertainty about access to fisheries resources and allocation of harvesting opportunities undermines the department's efforts to develop conservation incentives. If resource users do not have a reasonable degree of certainty that they will share in future returns arising from their conservation efforts, they will have limited incentive to support conservation. The challenge is to provide greater certainty and stability to resource users and to establish clear processes for decision making at two levels: 1) the best use of the resource (including how use should be apportioned among such potential uses as commercial harvesting, aquaculture and recreational fishing); and 2) the way access and allocation should be apportioned within commercial fisheries.

Closed Decision-making Processes

All resource users, whose interests vary depending on the type of activity they engage in (e.g., commercial harvesting, Aboriginal fisheries, aquaculture and recreational fishing), need to be adequately represented in the fisheries management decision-making processes that directly affect their interests. However, the involvement of resource users in fisheries management processes is currently constrained by disparities in their representational and organizational capacity, which includes skills and training.

Moreover, since the fisheries are a publicly owned resource, others with an interest in the fisheries, but who are not resource users, must also be given an opportunity to have an input on policy directions for the management of the fisheries.

The policy framework that follows addresses these challenges. It articulates a vision for the management of the Atlantic fisheries that will resonate with resource users and other interested parties. The vision is underpinned by four objectives and a set of nine principles. Together they provide a foundation for the long-term management of the Atlantic fisheries.

1.4 Aboriginal Fisheries

Others with an interest in the fishery include organizations or individuals interested in the outcomes of decision-making in the management of fisheries, such as processing companies, crew members of fishing vessels, plant workers, fish buyers, academics, environmental groups or community organizations. The policy forums presented in Chapter 6 will be opened to participation from any interested individual while acknowledging the importance of the input provided by legitimate organizations.

An important objective of this policy framework is to provide for Aboriginal participation and involvement in fisheries management decision-making processes so as to promote collaboration between all resource users. It will be essential to facilitate effective communication to enable government representatives, Aboriginal groups and non-Aboriginal fisheries groups to work together toward shared goals.

Court decisions have clarified certain Aboriginal and treaty rights related to access to the fisheries. The Department of Indian Affairs and Northern Development leads processes on behalf of the Government of Canada for addressing Aboriginal treaty and rights issues. Fisheries and Oceans Canada has designed programs through which it is facilitating increased Aboriginal participation in the fisheries. This policy framework does not replace or impinge on these separate processes for interpreting and accommodating the rights of Aboriginal people to harvest fish.

Fisheries and Oceans Canada will continue to manage fisheries in a way that is consistent with the constitutional protection provided to Aboriginal and treaty rights by section 35 of the *Constitution Act, 1982*. Moreover, the direction outlined in this framework is consistent with the *Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*.

Building on the vision for the management of the Atlantic fisheries described in Chapter 2, this policy framework sets out broad principles and objectives for fisheries management that will apply to all participants in the four Atlantic provinces, Quebec and Nunavut. This will lead in the long-term to a fisheries management system that includes both Aboriginal representation and that of other resource users.

1.5 AFPR Consultations

Fisheries and Oceans Canada is grateful for the serious and creative efforts of the many participants who contributed to the AFPR process with verbal and written submissions. Their contributions have been carefully considered and have had a significant impact on this policy framework, as well as on plans for further policy development and implementation in Phase II.

The AFPR process included consultations with provincial and territorial governments and open public meetings in the Atlantic provinces, Quebec and Nunavut. In addition, an External Advisory Board comprising diverse interests in the Atlantic fisheries was created to serve as a sounding board.

A discussion document, *The Management of Fisheries on Canada's Atlantic Coast—A Discussion Document on Policy Direction and Principles*, was released in February 2001 and distributed widely. The document was intended to help focus the dialogue on policy directions and options and was used to guide the round of public consultations held across Atlantic Canada in March and April 2001. A report summarizing submissions and comments from the 19 public meetings, *What We Heard—A Summary of Public Consultations Conducted by the Atlantic Fisheries Policy Review*, was issued in August 2001 and is available on Fisheries and Oceans Canada's Web site (www.dfo-mpo.gc.ca/afpr-rppa) or from department headquarters and regional offices.

In addition to conducting public sessions, the department invited comments on the proposed direction from February to May 2001 through a toll-free number, a Web site, an e-mail address and in writing.

1.6 Organization of the Framework

Governance encompasses the various systems of authority and decision making in fisheries management combined. It also includes participation in consultation, planning and decision-making processes by resource users and other interested parties.

The framework is organized into seven chapters and three appendices. Chapter 2 presents a vision for the management of the Atlantic fisheries. It establishes four interrelated objectives to make this vision a reality and identifies nine principles designed to guide decision making in the long term.

Chapters 3 through 6 amplify the four objectives. Each objective is supported by a set of policy strategies and proposed actions for achieving the desired outcome.

Chapter 3 describes how to ensure conservation and sustainable use of fisheries resources and habitat. Chapter 4 explains how Fisheries and Oceans Canada can help bring about greater self-reliance on the part of resource users. Chapter 5 establishes a strategy for achieving stability in how prospective users gain access to fisheries resources and in how harvesting opportunities are apportioned. Chapter 6 focuses on a recurring theme in the framework—shared stewardship, representing a move by the department to foster greater responsibility by resource users and others for the outcomes of fisheries management policies and operational decisions.

The conclusion (Chapter 7) describes Fisheries and Oceans Canada's intent to proceed with the implementation phase of the AFPR (Phase II). Appendix 1 lists important references and policy documents. Appendix 2 provides a glossary of the terminology used in this document.

Vision for the Management of the Atlantic Fisheries

2.1 The Vision

This framework provides policy direction for the management of fisheries on the Atlantic coast over the long term. Although the focus of the document is on commercial harvesting, it recognizes that the fishery is a valuable and vital common property resource to be managed for the benefit of all Canadians and acknowledges the diversity of uses of fisheries resources.

The document advocates a broad, inclusive approach to fisheries management while managing in a manner consistent with the constitutional protection provided to Aboriginal and treaty rights. The framework is based on a clear, achievable vision for the future of the Atlantic fisheries.

Vision

The Atlantic fisheries will become a biologically sustainable resource supporting fisheries that:

- are robust, diverse and self-reliant;
- effectively involve all interests in appropriate fisheries management processes;
- are sustainable and economically viable, contributing to the economic base of coastal communities; and
- provide for the constitutional protection afforded Aboriginal and treaty rights and where Aboriginal and non-Aboriginal resource users work collaboratively.

Conservation and sustainable use of resources and habitat must be the overarching, and indeed the fundamental, objective for fisheries management on Canada's Atlantic coast. Conservation is essential if fisheries are to be self-reliant, viable and capable of contributing to the economic and social base of coastal communities over the long term.

To achieve the vision of biologically sustainable resources supporting self-reliant and viable fisheries, there will be a continued shift away from strictly top-down management to shared stewardship. Participants will be given opportunities to communicate and work together, to contribute specialized knowledge and experience, and to be effectively involved in decision making. By sharing in and endorsing the decision-making process, participants will be responsible not only for the interests they represent, but also for the conservation and sustainable use of fisheries resources. They will also be expected to acknowledge the legitimacy of the process by which decisions are made and to abide by these decisions.

The shift from top-down management to shared stewardship also implies an evolution in the role of Fisheries and Oceans Canada, from one largely taken up with day-to-day management of fleets and fishing activities to one concerned primarily with developing policy, setting strategic direction and evaluating performance. To achieve this fully, certain fisheries management responsibilities will be delegated to resource users. The department will continue to provide sound scientific advice, establish required conservation measures, and ensure compliance.

2.2 Objectives

To make the vision for the Atlantic fisheries a reality, this framework identifies two core objectives and two supporting objectives. These four objectives describe the outcomes that Fisheries and Oceans Canada will strive to achieve in collaboration with resource users and others who have an interest in the Atlantic fisheries. The framework also sets out policy strategies, including specific actions calculated to achieve the four objectives. The principles that underpin these objectives and strategies are outlined in section 2.3 below.

The two core objectives are:

Conservation and Sustainable Use

Conservation of marine resources and habitat, and rebuilding of resources and restoration of habitat where necessary, will remain the highest priority for the management of all fisheries. Within the limits of available knowledge, all fishing activities will be conducted in a manner that leads to sustainable levels of resource use.

Self-reliance

Self-reliant fisheries and collaboration among all orders of government will contribute to the well-being of coastal communities. To be more self-reliant, resource users will have more flexibility to make decisions about their own economic and social objectives.

Achieving these two core objectives demands:

Shared Stewardship

Participants will be effectively involved in fisheries management decision-making processes at appropriate levels; they will contribute specialized knowledge and experience, and share in accountability for outcomes.

Achieving shared stewardship requires:

A Stable and Transparent Access and Allocation Approach

The access and allocation of fisheries resources will be more stable and predictable, and decisions will be made and conflicts resolved through fair, transparent and rules-based processes.

2.3 Principles

The following principles are intended to guide decision making on management of the Atlantic fisheries. They will also serve as a tool for evaluating future fisheries management policies and decisions and ensuring their coherence with the framework's objectives. Together, the vision, the four objectives and the principles provide the foundation for the management of fisheries over the long term and set the stage for further development of operational plans in Phase II of the review. There are nine principles:

- Conservation of fisheries resources and habitat—defined as sustainable use that safeguards ecological processes and genetic diversity for present and future generations—is the first priority of fisheries management decision making.
- The fishery is a common property resource to be managed for the benefit of all Canadians, consistent with conservation objectives, the constitutional protection afforded Aboriginal and treaty rights, and the relative contributions that various uses of the resource make to Canadian society.
- The Minister of Fisheries and Oceans, on behalf of all Canadians, retains authority for the sustainable use of fisheries resources and their habitat, and for the access and allocation thereof.
- Fisheries and Oceans Canada recognizes the historic and continued importance of commercial fisheries on the Atlantic Coast as well as the legitimacy and importance of other users, such as recreational fishers and aquaculturists.
- Governments, resource users and others with an interest in the fisheries share responsibility for the sustainable use and economic viability of fisheries.
- Fisheries management decision-making processes will provide opportunities for increased Aboriginal participation and involvement.
- Fisheries management decision-making processes must be, and must be seen to be, fair, transparent and subject to clear and consistent rules and procedures.
- Fisheries management decision-making processes will be more inclusive so that resource users and others will have appropriate opportunities to participate.
- Operational decision making affecting specific fisheries will normally be made as close to those fisheries as possible and will primarily involve resource users.

Conservation and Sustainable Use

3.1 Policy Context

Safeguarding ecological processes and genetic diversity serves the interests of both present and future generations. The economic viability of resource users and fisheries-dependent communities is precarious, and it will remain so until everyone makes a commitment to conservation and sustainable use. Decisions about whether to harvest and how much to harvest must weigh the current social and economic benefits of harvesting a fish stock against the need to ensure future harvesting opportunities. These decisions must consider the risks that harvests pose to conservation and recognize that, while conservation remains the highest priority, it is impossible to avoid all risks. Participants in decision-making processes must work together to determine acceptable levels of risk in the current exploitation of a resource for social, economic and cultural benefits, and to develop the measures required to protect the resource and its habitat. Participants will need to develop, adopt and respect predetermined reference levels that trigger actions to restrain or stop fishing activities when the knowledge available points to a serious threat to the long-term viability of fish stocks and their habitats.

Principle

Conservation of fisheries resources and habitat—defined as sustainable use that safeguards ecological processes and genetic diversity for present and future generations—is the first priority of fisheries management decision making.

Principle

The fishery is a common property resource to be managed for the benefit of all Canadians, consistent with conservation objectives, the constitutional protection afforded Aboriginal and treaty rights, and the relative contributions that various uses of the resource make to Canadian society.

Principle

The Minister of Fisheries and Oceans, on behalf of all Canadians, retains authority for the sustainable use of fisheries resources and their habitat, and for the access and allocation thereof.

Fisheries and Oceans Canada recognizes that it must be more effective at enabling resource users to take greater responsibility for sustainable use. Resource users are directly affected by their efforts to conserve stocks and habitat, and they must be assured that they will be the most direct beneficiaries of the returns arising from such efforts. Resource users need incentives to encourage them to collect and accurately report the information required for making reliable conservation decisions. It also stands to reason that they should become more direct contributors to the research needed to make effective decisions and more active participants in the planning, implementation and evaluation of conservation strategies.

AFPR has developed four policy strategies calculated to ensure that conservation is the paramount priority for resource management and that all fishing activities are conducted at sustainable levels. The strategies are to:

- develop and adopt a comprehensive risk-management framework that incorporates precautionary decision making;

- develop and adopt ecosystem-based management;
- conduct fishing activities within an enforceable regulatory framework; and
- promote a conservation ethic and responsible harvesting operations.

3.2 Policy Strategies

3.2.1 Developing and Adopting a Comprehensive Risk Management Framework that Incorporates Precaution

Risk Management Framework

Objectives-based Management is a structured, systematic and inclusive approach incorporating precaution and ecosystem-based management. It envisages that fisheries management plans will be developed by teams made up of resource users and Department of Fisheries and Oceans personnel involved in science, enforcement and resource management.

Fisheries management decisions must explicitly consider the attendant risks to resources and the ecosystem. Fisheries and Oceans Canada will continue to ensure that resource use decisions are conservation oriented by implementing objectives-based management—a comprehensive decision-making framework that is based on sound risk-management practices. This risk management framework will focus on achieving conservation objectives compatible with sustainable use, by:

- establishing reference points that are linked to key stock and ecosystem indicators, such as the size and productivity of the resource; and,
- implementing resource use strategies in relation to these reference points that will scale levels of use to stock condition in a manner that will avoid undesirable outcomes.

Reference points for fisheries management decisions include targets where benefits sought by resource users can be obtained on a sustainable basis, as well as "limits" beyond which there is unacceptable risk of serious or irreversible harm. The risk management framework will be designed with input from resource users, particularly related to establishing targets for stocks such as long-term sustainable yields and size profiles in the catch. These targets would be the basis for a fisheries management approach anchored in setting and achieving measurable objectives.

Decisions made within this risk management framework should 'err on the side of caution', and should therefore rarely result in unacceptable situations. Using this framework should mitigate situations where resources are being overexploited, promote the rebuilding of depleted stocks and address situations where harvesting practices are incompatible with objectives.

Implementing the Risk Management Framework

In keeping with Canada's *Oceans Act* and the *United Nations Fish Agreement* this decision-making framework will apply precautionary decision making in situations characterized by high uncertainty and a threat of serious or irreversible harm to the resource or ecosystem. Applying precaution to the management of Canadian fisheries entails setting a limit reference point, and if this limit is approached, implementing increasingly restrictive resource use strategies. When necessary, extraordinary measures, including prohibiting fishing activities, may be taken.

Implementing a risk management framework in fisheries management therefore requires setting a limit reference point; identifying potentially negative outcomes of management decisions; evaluating the attendant risks; and determining in advance what corrective actions will be taken.

During **AFPR Phase II**, Fisheries and Oceans Canada will continue to pursue excellence in fisheries science and stock assessment. It will also implement objectives-based management consistent with the comprehensive risk management framework. Specific actions may include:

- adopting new and more cost-effective strategies to determine stock and ecosystem status, including increased use of traditional knowledge and expanded opportunities for collaboration between government scientists and the fishing industry;
- implementing a decision-making framework designed to achieve conservation and management objectives compatible with sustainable use, including establishing corresponding targets and decision-making guidelines, with input from resource users;
- establishing parameters for applying precaution within the decision-making framework, including defining negative outcomes and risk tolerances, setting limit reference points for stocks and determining corrective actions;
- maintaining a rigorous and effective scientific peer review process to ensure that the status of stocks is determined based on clear and timely information, that ecosystem indicators are evaluated in a manner consistent with the comprehensive risk-management framework, and that conservation-oriented decision making is supported by quality information; and
- enhancing communication and cooperation between the department and other interested parties (e.g., the fishing industry, Aboriginal organizations, provincial and territorial governments, community-based organizations, universities, and other institutions), with an eye to improving decision making related to fisheries resources and ecosystems.

3.2.2 Developing and Adopting Ecosystem-based Management

Ecosystem-based Management means taking account of species interactions and the interdependencies between species and their habitats when making resource management decisions.

There is a growing acceptance among fisheries scientists, managers, resource users and others that fisheries cannot be sustained through single-species management. Inter-species relationships, habitat conditions and the effects of fishing gear must also be taken into account to protect the health of stocks.

To ensure ecosystem integrity and protect biodiversity, the integrated management process for the use of ocean resources and spaces will involve the identification of ecosystem-based management objectives relating to biodiversity, productivity, and the physical and chemical properties of the ecosystem and that aim to conserve enough components (ecosystems, species, populations, etc.) to maintain the natural resilience of the ecosystem. These objectives will be defined using reference points for the ecosystem, which will include limit reference points to define an ecosystem condition that should be avoided. Surpassing these limits will trigger management actions. This approach will evolve as knowledge and understanding of ecosystem relationships and processes improve.

The *Species at Risk Act* seeks to prevent wildlife species from becoming extirpated or extinct, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and to manage species of special concern to prevent them from becoming endangered or threatened.

Impacts of Fishing Gear

The impacts of particular fishing methods and gear types on fish resources and habitat are of continuing concern. Three types of impacts are most frequently discussed:

Impacts on Habitat and Non-Targeted Species: In some marine areas, certain harvesting methods involve higher risks than others for marine mammals, birds, plants, corals and habitat integrity.

By-catch Impacts: Some harvesting methods are less selective than others in terms of mortality levels for juvenile or non-targeted fish.

Ghost Fishing: Some fishing gear can go on catching and killing fish after it is lost at sea or illegally left in the water between seasons.

Fisheries and Oceans Canada's long-term objective is to integrate ecosystem-based management into planning for all fisheries. The department will encourage those interested in the Atlantic fisheries to participate in the advisory policy forums described in section 6.2.1 to support this goal and to ensure that the integrated management process effectively includes their views.

In **AFPR Phase II**, new policy and program approaches will be developed to support ecosystem-based management and will be informed by the ecosystem-based objectives identified in the integrated management process. Specific actions may include:

- developing fisheries management plans that give more thorough consideration to environmental conditions, inter-species interactions, and the protection of biodiversity and species at risk;
- continuing development of recovery strategies to foster the protection and recovery of species at risk;
- using oceans management measures, including Marine Protected Areas, to protect the most vulnerable habitats and areas of biological importance;
- promoting fishing technologies and practices that maintain spawning potential, ensure all age groups are appropriately represented in the catch, protect genetic diversity within stocks and populations, and minimize negative impacts on other marine resources and on marine habitats; and
- evaluating new harvest opportunities and technologies at an early stage to ensure that they are compatible with established ecosystem-based objectives.

3.2.3 Conducting Fisheries within an Enforceable Regulatory Framework

Fisheries and Oceans Canada is responsible for the conservation and sustainable use of fisheries within Canadian waters, for enforcing measures and rules established by international bodies, and for protecting the resource against illegal fishing activities.

Ensuring conservation and sustainable use requires an appropriate statutory/regulatory framework that is clearly understood, enforceable and supported by resource users and others. Such a framework would comprise regulations, fishing rules and procedures, and consequences for non-compliance. A key feature of this framework will be to involve resource users in its development and implementation.

Over and above what will be set out in the statutory/regulatory framework, resource users will gradually be encouraged to develop procedures, compliance methods and enforcement strategies, to promote conservation and improve the management of their day-to-day fishing operations. In accordance with its goal of concentrating on setting strategic direction and evaluating performance, the department's role will be one of auditing the effectiveness of the methods chosen by resource users from a conservation standpoint. This may require legislative changes.

Conservation measures and rules alone, however, will not lead to compliance. Positive incentives are required to reinforce rules and measures. These incentives must be adopted to support behaviour that fosters the conservation objectives and they must encourage resource users to go beyond mere compliance with the rules.

Finally, to be effective and to ensure sustainable use of fisheries resources, enforcement officers must have at their disposal the most efficient mix of monitoring, surveillance and control methods needed to do their work. Furthermore, while there is a need to improve deterrence methods, in the meantime the department will continue to work through the courts to use appropriate enforcement measures, including prosecution and licence suspensions, for serious conservation offences.

To improve compliance, in **AFPR Phase II**, Fisheries and Oceans Canada will work with resource users and other interested parties to further develop its statutory/regulatory framework to better provide for conservation and sustainable use. Specific actions may include:

- achieving the right mix of monitoring, control and surveillance methods, which might include electronic monitoring systems for fishing vessels and gear, dockside monitoring services and putting observers on fishing vessels;
- strengthening deterrence through more effective control measures and more appropriate and effective penalties for illegal fishing practices—for example, a fleet's entitlement to maintain its harvest shares could be made conditional on its conservation and compliance record;
- increasing industry self-regulation by developing compliance protocols that set out obligations and consequences for non-compliance and making them part of fisheries management plans—Fisheries and Oceans Canada will have an audit role to ensure conservation objectives are met;
- developing new approaches and incentives to support sound stewardship of resources—examples include:
  - giving priority for new allocations to fleets that consistently demonstrate an excellent conservation record in fisheries where there is a substantial increase in the abundance of the resource, and
  - giving fleets more flexibility to design management measures, such as those related to observers programs; and
  - developing other appropriate enforcement measures.

3.2.4 Promoting a Conservation Ethic and Responsible Harvesting Operations

Canadian Code of Conduct for Responsible Fishing Operations

Guidelines and codes of conduct are useful tools for raising awareness of and changing behavioural norms for adopting responsible fishing methods. They also present opportunities to include education about conservation in programs to professionalize fish harvesters in different regions of the Atlantic fisheries.

Principle

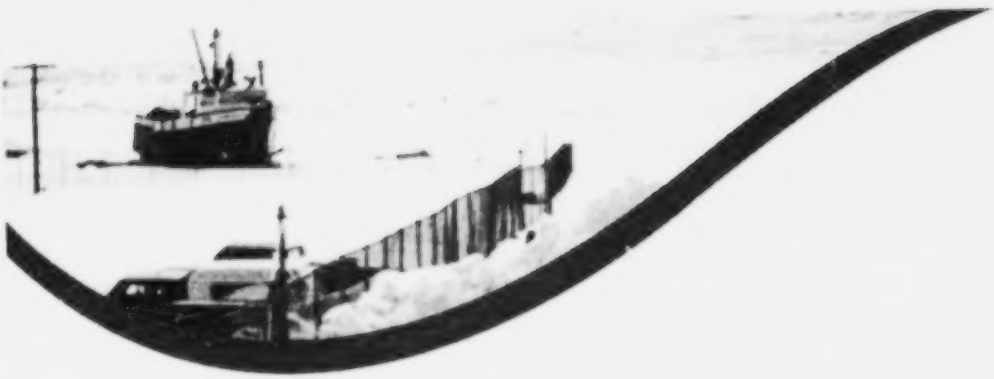
Governments, resource users and others with an interest in the fisheries share responsibility for the sustainable use and economic viability of fisheries.

Conservation is more easily attained if resource users, coastal communities and other participants take greater responsibility for stewardship of the resource. Promoting a conservation ethic is one of the most important preconditions for sustainable management of fisheries. The greatest hope for the Atlantic fisheries is that the push for sustainable use will increasingly come from wharves, boats and local meeting rooms, with the department working hand in hand with all participants to achieve shared objectives.

Canadians, in particular resource users and their communities, have to have reason to believe that they will be the main beneficiaries of sound fisheries management and effective conservation, both now and, more importantly, in the future. Harvesters often find themselves forced to choose between fishing responsibly and reaping a short-term economic pay-off by pushing the limits. If resource users have no reasonable assurance that they will benefit from future returns arising from effective conservation efforts, the scales might be tipped against conservation and in favour of short-term economic benefits. Therefore, as explained in Chapter 5, Fisheries and Oceans Canada will work with resource users to ensure that they have more stable and predictable harvest shares, so they can reap the current and future benefits of adopting and complying with effective conservation measures.

In **AFPR Phase II**, the department will work with resource users, provinces and Nunavut to share responsibility for using resources sustainably and for rebuilding depleted fish stocks. Specific actions may include:

- promoting training and skill development;
- involving resource users in stock assessment research and integrating traditional knowledge and the expertise of resource users in the evaluation of fish resources and ecosystems;
- involving resource users in setting targets for stock conservation and determining actions to avoid limits;
- promoting and expanding the use of innovative, responsible fishing practices to mitigate impacts on habitats and non-target species.
- encouraging the industry's continued implementation of the Canadian Code of Conduct for Responsible Fishing Operations; and
- promoting the development and implementation of a voluntary post-harvest code of conduct to prevent the trade of illegally caught fish.



4

Self-reliance

4.1 Policy Context

The Government of Canada recognizes that hundreds of coastal communities depend on the Atlantic fisheries and that the fisheries make an important contribution to the country's national identity and prosperity. Fisheries and Oceans Canada's primary responsibility is to safeguard the long-term viability of the resource base by ensuring that it is exploited sustainably.

Faced with groundfish stock declines in the 1990s, the federal government funded efforts to restructure fleets and to reduce participation. Those large-scale interventions are completed. However, a number of fleets are still too large given the available resource. They need to be able to develop mechanisms to adapt their overall harvesting capacity to maintain sustainable resource levels over the long term. In time, this flexibility will help ensure the economic viability of fleets.

In the past, many people in coastal communities looked to fisheries to solve wider social and economic problems. Today, it is generally accepted that there are simply not enough resources to fill ever-increasing needs for jobs, incomes and new allocations of fish. However, it is possible to improve international competitiveness and expand the total economic benefits from finite fisheries resources by improving conservation and management methods and developing diversification strategies and pursuing innovations in harvesting, value-added processing and marketing.

The intent of this policy framework is to provide the foundation for more self-reliant Atlantic fisheries that are able to contribute to the well-being of coastal communities and to survive downturns without government assistance and with only a normal business failure rate.

Characteristics of Self-reliant Resource Users

- They have adopted a conservation ethic and conduct harvesting operations in a responsible manner.
- They receive returns sufficient to be economically viable.
- They contribute to the costs of managing fisheries, participate in monitoring and compliance activities, and contribute to fisheries science by collecting and reporting data in a timely and accurate manner.
- (Commercial fisheries only) They develop self-adjustment mechanisms appropriate to their fleets, as well as other strategies, such as holding licences for several different species to enable them to match overall capacity with resource availability and market conditions.
- They conduct safe operations and ensure that all those involved have received proper training.
- They are innovative and, through continuous learning, able to adapt to new technologies.

The department's policy objective is to create the circumstances for resource users to be more self-reliant, economically viable and self-sustaining on a long-term basis. To achieve this objective, the department will adopt two complementary strategies. It will:

- clarify what its role should be in supporting viable coastal communities; and
- provide resource users with a greater role in shaping social and economic objectives.

Although the principles developed in the framework are meant to apply to all resource users, some of the policy strategies proposed in this chapter are more relevant to the commercial fisheries.

4.2 Policy Strategies

4.2.1 Clarifying the Role of Fisheries and Oceans Canada in Supporting Viable Coastal Communities

Economic Development Potential in the North

The management of fisheries in the North presents unique challenges. In most Atlantic fisheries, there are strict limits on licences and the number and size of vessels, and the industry is considered to be operating at or above full capacity.

In the North, and particularly in Nunavut, communities are looking to the fisheries resources as a focus for economic development. However, better knowledge of those resources is often needed, and other key elements of management must be in place. Consistent with the overall principles and objectives set out in this policy framework and other relevant policies, such as the *New Emerging Fisheries Policy* (2001), a fisheries development strategy for the North is required to ensure priority is also given to science and management of existing and emerging fisheries in those regions.

Fisheries in northern regions, and those managed under land claims agreements, thus require an approach that balances conservation, management and shared stewardship with economic development.

In the past, many people expected Fisheries and Oceans Canada to solve economic and social problems in coastal communities. Because resources were finite, there were inevitably conflicts among resource users, who would then put pressure on the department to compromise conservation objectives. The well-being of coastal communities is a collective responsibility and cannot rest exclusively on the actions of Fisheries and Oceans Canada.

For example, the federal government's vision for rural Canada (the *Federal Framework for Action in Rural Canada*) and its vision for a globally competitive Canadian economy (*Canada's Innovation Strategy*) provide important policy foundations for the economic development of coastal communities. The Government of Canada is committed to the promotion of vibrant communities, based on sustainable resource use, in which citizens make informed decisions about their own future. Furthermore, Canadians expect to share the benefits of the global knowledge-based economy and society, taking full advantage of opportunities for personal and sustainable community development. The ability of coastal communities to overcome economic and social challenges and to build on their wealth of assets depends on local capability and innovation. This includes support from and partnership with various levels of government to provide appropriate programs, services and information, as well as participation by these communities themselves in decisions that affect their future.

Canada recognizes that the oceans and their resources offer significant opportunities for economic diversification and the generation of wealth for the benefit of all Canadians, and in particular for coastal communities. *Canada's Oceans Strategy* encourages the direct involvement of resource users and coastal communities in the development, promotion and implementation of sustainable activities in and around the oceans, through integrated management planning.

Regarding the fisheries, Fisheries and Oceans Canada can best contribute to the well-being of coastal communities by promoting the sustainable use of fisheries resources through respect for conservation principles. Putting respect for conservation principles and sustainable use of fisheries resources first is the department's main contribution to the long-term economic and social viability of resource users and fishing-dependent communities. With respect to Aboriginal organizations and communities, access to fisheries provides them with an opportunity to improve their economic and social circumstances, and support the policy direction established by the Government of Canada in *Gathering Strength—Canada's Aboriginal Action Plan (1997)*.

In **AFPR Phase II**, within its specific mandate and resources, the department will assist in supporting economic development in coastal communities. Specific actions may include:

- supporting initiatives by other federal, provincial and territorial departments and agencies, Aboriginal communities and other resource user groups that seek to foster community economic development in coastal regions—initiatives should address the diverse circumstances faced by different regions and different fleets;

Community refers to a group of people living in a common place, location, or region who are tied together by residence, identity and/or history.

- supporting the formulation of community-based innovation strategies, as part of *Canada's Innovation Strategy*, in cooperation with provincial, territorial and municipal governments;
- promoting new and emerging opportunities for oceans industries and oceans-related coastal development, in support of *Canada's Oceans Strategy*;
- fostering the development of activities such as aquaculture in a manner that supports conservation, public confidence and industry competitiveness;
- continuing to partner with resource users and appropriate government agencies to help develop the capacities needed for safe, viable and sustainable participation of Aboriginal communities in the fisheries; and
- working jointly with Aboriginal organizations and communities, other resource users, processor groups and local, provincial and territorial governments to help develop and implement an approach to the management and development of fisheries for Nunavut and northern areas.

Principle

Governments, resource users and others with an interest in the fisheries share responsibility for the sustainable use and economic viability of fisheries.

4.2.2 Providing Resource Users with a Greater Role in Shaping Social and Economic Objectives

Giving resource users a greater role in the decision-making processes that affect their operations will help improve the viability and profitability of those operations, and ultimately benefit their communities. With more stable resource-sharing arrangements, as proposed in the next chapter, having a greater role in the decision-making processes can help resource users create the conditions that will allow them to be more self-reliant and make the best decisions.

To meet their objectives, resource users might want existing fisheries management policies to be modified, or they may wish to introduce new initiatives. The sections below examine how resource users' expanded control over their social and economic objectives will affect the development of self-adjustment mechanisms, encourage innovative and diversified fisheries, and shape the owner-operator and fleet separation policies. Resource users can also play a greater role in other areas of fisheries management. These include: designing compliance methods; having more flexibility over the day-to-day management of their operations, such as setting opening and closing dates of a fishery, or trip limits; or developing proposals to change vessel replacement rules.

Principle

Fisheries management decision-making processes must be, and must be seen to be, fair, transparent and subject to clear and consistent rules and procedures.

Constraints on Decision Making

More flexibility for resource users to define economic and social objectives must take place within the limits of sustainable use and certain constraints (see sidebar on page 20). Procedures will be adopted to ensure that communities, citizens and other groups are informed of new initiatives or proposed changes to existing policies that may affect their interests and to ensure that they have an opportunity to participate in the decision-making process. Such procedures will promote full, informed and open participation and debate in the decision-making process. Ministerial approval will be necessary for some proposed changes.

Constraints on the expanded role of resource users include:

- adhering to conservation objectives;
- respecting the constitutional protection afforded Aboriginal and treaty rights;
- maintaining a balance between fishing capacity and available resources on a sustainable basis;
- there will be no increase in the number of enterprises consistent with existing licensing policy;
- not imposing undue costs on governments or other resource users;
- taking into account the interests of others that may be affected by the proposals;
- maintaining the geographic distribution of economic opportunities within a diverse fleet structure; and
- taking into account the Minister's overall authority for sustainable use of fisheries resources and their habitat, and for the access and allocation thereof.

It is expected that new initiatives or proposed changes to existing policies will be brought forward by legitimate organizations that represent a significant proportion of resource users within their regions, fleets or industry sectors. As indicated in section 6.2.4, criteria to define the types of organizations that can legitimately participate in fisheries management processes will be established collaboratively during **AFPR Phase II**.

In **AFPR Phase II**, Fisheries and Oceans Canada will work with resource users to identify and implement expanded opportunities to shape the social and economic objectives for the management of their fisheries. Specific actions may include:

- identifying fisheries management policies and the types of initiatives in which resource users can play a greater role; and
- developing procedures to protect the interests of others that will:
  - ensure that the environmental, economic and social effects of proposed changes are evaluated and documented by the organizations proposing them;
  - ensure that all affected and interested parties are informed, have access to relevant information and have an opportunity to participate in and influence the evaluation process at the appropriate level; and
  - make decisions and their rationale public.

Developing Self-adjustment Mechanisms in the Commercial Fisheries

One of the important goals of the *Commercial Fisheries Licensing Policy for Eastern Canada* is to achieve a balance between harvesting capacity and resource availability. Although departmental policies designed to limit both entry to the fisheries and harvesting capacity have had some success in achieving this balance, several fleets are still too large, threatening their long-term economic viability and the sustainability of the fisheries they exploit.

More generally, self-reliant commercial harvesters should be able to adjust to fluctuations in resource abundance as well as in markets. Fisheries and Oceans Canada proposes that participants in the commercial fisheries develop mechanisms to deal with situations in which their overall capacity is too large or in which market conditions cannot ensure the economic viability of their operations. As a feature of fisheries management plans, fleets could propose mechanisms, such as transferable quotas, allowing enterprises to combine/partner by pooling their quota share (or licences or gear) or the issuance of licences and quotas through a fleet planning board. In cases where fleets use these voluntary self-adjustment mechanisms Fisheries and Oceans Canada would generally respect the fleet's share so as not to negate the benefits sought through self adjustment. Some modifications to legislation/regulations may be necessary to implement these mechanisms.

In **AFPR Phase II**, the department will work with commercial licence holders to develop self-adjustment mechanisms that are appropriate for the different fleets.

Encouraging Innovation and Diversification

Participants in fisheries must continually adapt to new technologies, a changing business environment, fluctuating environmental conditions and changes in stock status. Markets for food are highly globalized; Canada's seafood industry must deal with intense competition, both from other fishing nations and from other food production sectors. Continuing investments in innovation are needed to support stable and rewarding employment and viable coastal regions.

Promoting Conservation and Innovation

The industry-driven initiative The Canadian Code of Conduct for Responsible Fishing Operations promotes conservation while strengthening Canada's competitive position in the marketplace.

Responsible fishing projects also contribute to the development of new technologies, creation of research networks, expansion of harvesting methods to improve species selectivity and improvements in energy-efficient fishing methods.

Fisheries and Oceans Canada, the provinces and Nunavut, within their respective mandates and jurisdictions, have an important role to play to ensure more effective relationships between the harvesting, processing and marketing components of the industry. Collaboration is needed to foster a forward-looking and well-organized fisheries sector able to compete in international markets.

To reduce their vulnerability to natural fluctuations in resource availability and to variations in market conditions, commercial licence holders are expected to diversify their operations while respecting conservation objectives and the need to control harvesting capacity. This includes, without being limited to, the possibility of holding licences for a number of different species, the flexibility to change fishing gear selectivity to adjust to varying circumstances in a fishery, and the use of fish allocations for ventures such as aquaculture, recreational fishing and marine tourism. Better coordination between industry sectors is also needed to reap the benefits of diversification strategies.

In **AFPR Phase II**, resource users, in collaboration with Fisheries and Oceans Canada and other government agencies, should support innovative and diversified fisheries to be able to withstand natural fluctuations in resource availability and improve international competitiveness. Specific actions may include:

- promoting and supporting the development of multi-licensed/multi-species enterprises as well as diversity in harvesting methods and strategies;
- examining the possibility for commercial harvesting enterprises to use their allocation for purposes other than commercial harvesting, such as aquaculture, marine tourism and operating recreational fisheries; and
- streamlining rules and regulations or adjusting harvesting and management practices to meet market demands for a reliable and dependable supply of fresh and processed fish products.

Preserving the Independence of the Inshore Fleet

Inshore – refers to the fishing sector where fishers are restricted to using vessels less than 19.8 metres or 65 feet in length.

Fisheries and Oceans Canada endorses the importance of maintaining an independent and economically viable inshore fleet. The owner-operator and fleet separation policies are integral elements of the *Commercial Fisheries Licensing Policy for Eastern Canada*, which remains in effect. Their intent is to protect the inshore fleet from control by other interests. Both policies are designed to keep the processing and harvesting functions separate.

Given the widespread concerns expressed by inshore fleets that the fleet separation policy is being undermined by "trust agreements," Fisheries and Oceans Canada released a discussion document in December 2003 to form the basis of public consultations on this issue. Fisheries and Oceans Canada is intent on preventing the use of "trust agreements" that direct the use of the licence (the beneficial interest) by a party other than the licence

Fleet separation policy – The fleet separation policy applies to fishing vessels less than 65 feet in length and separates the harvesting and processing sectors. It does not recommend the issuance of new inshore licences to corporations, including processing companies.

Owner-operator policy – applicable to licence holders using vessels that are less than 65 feet long. It requires licence holders to be present on their vessels and personally fish their licences.

Trust Agreements – Trust agreements are legally binding private contracts sometimes used to transfer the beneficial interest associated to a licence from a license holder to another party. Fisheries and Oceans Canada is not a party to such agreements and does not condone them.

holder. *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries* invited resource users and others to participate in an examination of the fleet separation policy with respect to its underlying objectives. Views were also sought on other approaches to foster the independence and economic viability of fleets covered by the owner-operator and fleet separation policies. During January 2004, consultations were held across Atlantic Canada, Quebec and Nunavut.

In keeping with the spirit of allowing fleets to make decisions and seek changes to policy, within constraints, Fisheries and Oceans Canada will consider requests from legitimate and recognized organizations representing a significant proportion of commercial licence holders within their fleets or regions for some changes to the owner-operator and fleet separation policies. Adaptation of these policies must continue to respect their underlying objectives—that is, avoiding undue concentration of licences and preserving and fostering a diversified sector of viable multi-licensed/multi-species independent inshore enterprises headed by professional fish harvesters. Some examples of what might be considered include modernizing the owner-operator provisions to deal with: facilitation of intergenerational transfers; authorization for heads of enterprises to combine by pooling their quota shares (or licences or gear); or designation of qualified operators who have a long-term attachment to the industry.

When considering proposals for modification of these policies, Fisheries and Oceans Canada will examine them in relation to the constraints and proposed procedures outlined in Section 4.2.2 and proposals will also need to adhere to the following additional constraints:

- Fisheries and Oceans Canada will only consider proposals from legitimate and recognized organizations;
- Proposals must represent a significant proportion of commercial licence holders within a given fleet or region;
- Proposals must not result in an undue concentration of licences; and
- Proposals must respect the need to preserve and foster a diversified sector of viable, multi-licensed independent inshore enterprises headed by professional fish harvesters.

In **AFPR Phase II**, specific actions may include:

- shaping the future of the owner-operator and fleet separation policies from the results of consultations on *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*; these results will also inform the means by which the department seeks to address the inshore fleet's concerns with "trust agreements";
- limiting the concentration of licences through predetermined percentages on quota allocations or the number of licences that may be held by one entity;
- in collaboration with others, exploring ways for enterprises to improve their self-reliance and economic viability, for example through comparative tax treatment or professional incorporation; and exploring ways to provide greater certainty for lending institutions and provincial loan boards; and
- consultation on a proposed regulation, in accordance with the requirements of the Government of Canada *Regulatory Policy*, if a regulation is determined to be the most effective means to preserve the independence of the inshore fleet.

5

Stable and Transparent Access and Allocation Approach

5.1 Policy Context

Marine fish resources are the common property of the people of Canada. Under current legislation, the Minister of Fisheries and Oceans is responsible for their conservation and proper management, including the authority for making final decisions on access and allocation. Fulfilling this Ministerial role requires regulating access to these resources and allocating them among different, and often conflicting, uses.

Principle

The fishery is a common property resource to be managed for the benefit of all Canadians, consistent with conservation objectives, the constitutional protection afforded Aboriginal and treaty rights, and the relative contributions that various uses of the resource make to Canadian society.

Principle

The Minister of Fisheries and Oceans, on behalf of all Canadians, retains authority for the sustainable use of fisheries resources and their habitat, and for access and allocation thereof.

Commercially harvested fisheries have been and will continue to be the predominant use of the resource on the Atlantic Coast. They now co-exist with other uses of the resource, such as Aboriginal food fisheries, aquaculture, recreational fisheries and marine tourism. Currently, only the Minister can resolve conflicts over best use of fisheries resources, that is, allocate the resources among those different uses.

Within commercial fisheries, too often disputes about access and allocation create instability that undermines the integrity of fisheries management and jeopardizes efforts to achieve sustainable use and self-reliance. If resource managers must be preoccupied with the reallocation of finite resource shares, an understandable response from resource users and others will be to expend their energy on obtaining the greatest possible share. This situation creates competition between different groups, divides communities, pressures Fisheries and Oceans Canada to resolve conflicts either by adjusting shares or by compromising conservation objectives, and increases the costs of managing the fisheries.

More importantly, these disputes, if at all extensive, create great uncertainty in the minds of resource users about future harvest opportunities. As emphasized earlier, such uncertainty undermines attempts to cultivate a conservation ethic. Such an ethic is a fundamental pre-requisite for the development of effective shared stewardship.

While it would be unreasonable to expect to eliminate all conflicts over the distribution of fisheries resources, adopting a stable and predictable access and allocation approach can reduce the frequency of conflicts and provide rules-based mechanisms to help resolve them.

The **total allowable catch (TAC)** is the total amount of fish allowed to be caught from a particular stock by all resource users over a particular period of time.

A **quota** is the percentage share of a TAC that is allocated to a specific group or to an enterprise (i.e., a fleet or fleet sector, a defined set of resource users or an individual).

Access means the opportunity to harvest or use fisheries resources, generally permitted by licences or leases issued by Fisheries and Oceans Canada under the authority of the Minister of Fisheries and Oceans. The department must take the constitutional protection provided to Aboriginal and treaty rights to fish into account when providing these opportunities.

Allocation refers to the amount or share of the fisheries resource and/or effort that is distributed or assigned by the Minister of Fisheries and Oceans to those permitted to harvest the resource.

Best use decisions concern access and allocation of fisheries resources among different uses e.g. commercial fishing, aquaculture, recreational fishing, etc. They also involve the determination of the particular uses of a fisheries resource that will generate the greatest possible public good or best serve the interests of all Canadians.

This policy framework introduces three strategies to achieve a stable and transparent access and allocation approach:

- clarifying the process and criteria for determining best use and acknowledging legitimate uses;
- establishing decision-making guidelines for commercial access and allocation; and
- stabilizing sharing arrangements in established commercial fisheries.

5.2 Policy Strategies

5.2.1 Clarifying the Process and Criteria for Determining Best Use and Acknowledging Legitimate Uses

Best use involves making decisions about *how* the resource is shared among the different uses. Such decisions will be made in exceptional circumstances, for example to implement court decisions or international agreements, or when it has become necessary to resolve conflicts between different uses. Under this policy framework, the Minister of Fisheries and Oceans retains the authority to make best use decisions consistent with conservation objectives, the constitutional protection accorded to Aboriginal and treaty rights and the relative contribution to Canadian society made by a particular use (which may change over time). The criteria for best use decisions will derive from this authority and will be determined in consultation with resource users during **AFPR Phase II**.

Conservation

Best use decisions will be guided first and foremost by the objective of conservation. A conservation strategy, such as establishing Marine Protected Areas or closing fisheries to protect biodiversity or to support recovery of a stock or fish habitat, could also be a best use in certain situations.

Aboriginal and Treaty Rights

Fisheries and Oceans Canada seeks to manage fisheries in a manner consistent with the constitutional protection provided to Aboriginal and treaty rights under section 35 of the *Constitution Act, 1982*. The department's policies with respect to fishing by Aboriginal groups assist in this regard.

The department will also consult with Aboriginal groups over access and allocation decisions that may affect their interests.

Commercial Harvesting and other Legitimate Uses of the Fisheries

The predominance of the commercial fisheries together with recreational fishing, aquaculture, marine tourism and other sectors will be recognized in best use decisions. The Minister of Fisheries and Oceans will weigh the relative benefits for Canada of these legitimate uses of fisheries resources, which may change over time.

Decision Making for Best Use and its Relationship to Integrated Management Planning

Principle

Fisheries and Oceans Canada recognizes the historic and continued importance of commercial fisheries on the Atlantic Coast as well as the legitimacy and importance of other users, such as recreational fishers and aquaculturists.

The process for making best use decisions will be open, transparent and informed by clear criteria and procedures that will reinforce the objectives of sustainable use and self-reliance. Resource users and others with an interest in the Atlantic fisheries will have opportunities to examine and discuss best use in the context of the advisory policy forums introduced in the next chapter. The Minister will consider the result of these discussions in decisions concerning the use of fisheries resources and those about the broader uses of ocean resources, as envisaged in the integrated management planning process established as part of *Canada's Oceans Strategy*.

In **AFPR Phase II**, the department will work with resource users and other interested parties to develop best use decision-making processes. Specific actions may include:

- developing guidelines and mechanisms to elaborate the criteria for best use decisions that acknowledge the diverse and legitimate uses of fisheries resources; and
- devising open and transparent procedures for making best use decisions.

5.2.2 Establishing Decision-making Guidelines for Commercial Access and Allocation

Principle

Fisheries management decision-making processes must be, and must be seen to be, fair, transparent and subject to clear and consistent rules and procedures.

The long-term objective is that commercial harvesters themselves, either within or across fleets, will recommend mutually agreed sharing arrangements to the Minister. As described below, where appropriate, the industry will devise its own mechanisms for settling allocation disputes at the local level.

While the Minister of Fisheries and Oceans retains final decision-making authority on access and allocation, the adoption and implementation of fair, transparent and accountable decision-making processes is a necessary first step for achieving a stable approach to access and allocation.

Increasing Participation in Allocation Decision Making for Commercial Fisheries

Increasing opportunities for participation by local or fleet-level commercial licence holders in allocation decision making will make allocation processes more transparent and their outcomes more understandable and acceptable. As a consequence, commercial harvesters will have greater incentives to support the sustainable use of their fisheries, that is, they will have developed a stronger conservation ethic. In addition, they will be able to focus their efforts on achieving economic viability, rather than on competing for a larger share of the resource.

A greater role in decision making, however, cannot be forced on fishers or fleets that do not have the capacity or the willingness to take on such responsibilities (Chapter 6 sets out an approach to help build such capacity). As in the preceding chapter, greater participation in allocation decision making will be circumscribed by certain constraints and will occur within a process designed to ensure that those who might be affected are able to voice their views.

Establishing a Decision-making Framework for Determining New Access in Commercial Fisheries When There Are Substantial Changes in Resource Abundance and/or Value

Fisheries and Oceans Canada will continue to manage and limit growth of capacity in the commercial fisheries. In exceptional circumstances, the Minister will consider providing new or additional access to a fishery that undergoes a substantial increase in resource abundance and/or landed value.

In November 2002, the *New Access Framework* to guide decision making in this area was introduced in response to the report from the Independent Panel on Access Criteria (IPAC). The *Framework* is characterized by a hierarchy of principles and criteria. **First**, the Minister will ensure that all decisions are consistent with a set of overarching principles. The first two principles are conservation and consistency with the constitutional protection provided Aboriginal and treaty rights. They are described in section 5.2.1 on best use. As a third overarching principle, the Minister will ensure that decisions are equitable—that they are fair both in procedure and substance.

Second, a set of criteria will be used to guide decisions to grant new or additional access. Conservation will be the primary criterion in all situations. Three other criteria, namely adjacency, historic dependence and economic viability, will be applied according to the circumstances of each fishery.

To maintain a balance between harvesting capacity and resource availability, decisions to grant new or additional access in specific fisheries will require that self-adjustment mechanisms (as described in section 4.2.2) have been developed on a fleet species basis for use in the event of a reduction in resource abundance and/or landed value. In the context of this section, such mechanisms could include strategies incorporating clear and enforceable entrance and exit rules for new entrants. Examples are last-in-first-out, or the use of entry and exit thresholds.

Fisheries and Oceans Canada, as part of the fisheries management planning process, will develop clear and transparent procedures for commercial licence holders to request access to fisheries of increasing abundance or value. For greater certainty, access to such fisheries will be provided only to members of the pool of eligible commercial licence holders (e.g. for vessels of less than 65 feet in length this means core licence holders).

As the fisheries management planning process evolves, commercial licence holders will be invited to provide advice to the Minister about the prospect of granting access to the fisheries they exploit if the fisheries undergo a substantial increase in abundance or landed value.

Access in Waters Adjacent to Nunavut

In its report, the IPAC also concluded that the new territory of Nunavut does not enjoy the same level of access to its adjacent fisheries as do the Atlantic provinces, and was of the view that every effort must be made to remedy this situation.

The aspirations of the government and people of the new territory of Nunavut to increase and diversify their fisheries sector are and will continue to be supported by Fisheries and Oceans Canada. The department has worked to assist Nunavut in achieving its goal in recent years by increasing Nunavut interests' allocations for turbot and shrimp, the two major commercial fisheries in that area. Fisheries and Oceans Canada has also worked with Nunavut to develop emerging fisheries.

Fisheries and Oceans Canada has therefore committed that no additional access will be granted to non-Nunavut interests in waters adjacent to Nunavut until the territory has achieved access to the major share of these resources, subject to aboriginal and treaty rights. This will not affect the current status of other participants in these fisheries.

Emerging Fisheries

Access and allocation for emerging fisheries follows the principles and procedures established under the *New Emerging Fisheries Policy* (2001), the objective of which is to diversify fisheries and increase economic returns while ensuring conservation and sustainable use. Fisheries and Oceans Canada continues to foster and develop emerging fisheries in cooperation with the provinces and territories.

Developing Conflict Resolution Mechanisms

Some conflict over commercial access and allocation is inevitable. Fisheries and Oceans Canada will encourage commercial licence holders to solve problems or resolve conflicts arising within or between fleets at the local level, whenever possible. The department will also encourage the use of alternative dispute resolution mechanisms, such as mediation, by the affected parties. Conflicts stemming from disputes about access and allocation will be resolved through rules-based processes guided by values of expertise, independence, transparency, fairness, inclusiveness and accountability. This approach will also guide the resolution of conflicts that might emerge from the processes established for the long-term stabilization of sharing arrangements, examined in section 5.2.3.

The results of the processes adopted to resolve conflicts will be presented to the Minister who, in accordance with the provisions of the *Fisheries Act*, will continue to make all final decisions on questions regarding access and allocation. The Minister may seek the advice of other bodies as circumstances warrant.

In **AFPR Phase II**, the department will work with resource users and others with an interest in the Atlantic fisheries to develop open, fair, transparent and accountable processes for decision making regarding access and allocation for commercial fisheries. Specific actions may include:

- developing specific policies to define the department's role and to expand commercial licence holders' participation in decision making, including procedures to involve those who might be affected;
- examining and developing a set of constraints, based on those presented in section 4.2.2, to circumscribe participation in decision making;
- establishing new governance arrangements to improve access and allocation decision-making processes;
- defining the levels of resource surplus or decline that constitute a substantial change in resource abundance;
- implementing the *New Access Framework* of principles and criteria to guide decision making relating to access in fisheries that experience an increase in resource abundance and/or landed value; and
- developing conflict resolution mechanisms to facilitate resolution of issues at the local level.

5.2.3 Stabilizing Sharing Arrangements in Established Commercial Fisheries

To circumvent the annual debate over resource shares Fisheries and Oceans Canada proposes that shares be established for longer terms. In fisheries where allocation arrangements are already in place through fisheries management plans and where the resource is relatively stable, the goal is to ensure that the same commercial harvesting groups will get the same proportion of the total allowable catch each year.

Moving Toward Long-term Arrangements

As a first step, the department will extend the duration of fisheries management plans and require that current sharing arrangements be documented in those plans. The Minister as appropriate will renew these sharing arrangements. In exceptional cases, the department may reconsider and revise current arrangements before establishing them for a longer period. Reasons for changing current sharing arrangements include the need to meet conservation objectives, the need to revise existing fisheries management plans to conform with legal requirements and the need to settle issues that have historically generated considerable differences.

Depending on harvesting activities and the duration of cycles of resource abundance in particular fisheries, long-term sharing arrangements may last up to nine years.

Once they are established for longer periods, sharing arrangements will be reconsidered only in exceptional circumstances. These include changes deriving from best use decisions or the emergence of new legal obligations. Processes introduced to stabilize sharing arrangements for the longer term or to deal with related conflicts will follow the decision-making guidelines presented in section 5.2.2.

Reopening Closed Fisheries

Where closed fisheries are reopened, the Minister will be guided first by conservation objectives and will generally respect historic fleet shares, reflecting past participation in and dependency on a particular fishery as the basis for allocations. Changes in fishing methods may be required to meet conservation and sustainable use objectives.

In accordance with previous ministerial directions, in the case of Northern cod, the inshore sector will be granted priority over other sectors until cod landings for the inshore fleet have returned to historic levels, subject to conservation requirements and the management framework adopted to meet them.

In **AFPR Phase II**, Fisheries and Oceans Canada will work with commercial harvesters to stabilize sharing arrangements for the long term. Specific actions may include:

- documenting current arrangements and stabilizing them for the longer term;
- reviewing current arrangements, in exceptional cases, prior to a longer-term stabilization; and
- determining the conditions to be respected when reopening closed fisheries.

Shared Stewardship

6.1 Policy Context

The preceding chapters have stressed that achieving the objectives of conservation and sustainable use and self-reliance requires that governments, resource users and others with an interest in the fisheries share responsibility for the implementation of fisheries management decisions and their outcomes.

Fisheries and Oceans Canada believes that enabling resource users and others to play a greater role in decision making, and thus to take greater responsibility for resource management decisions and their outcomes, will further a conservation ethic and enable stakeholders to take greater control of their economic and social well-being.

Principle

Governments, resource users and others with an interest in the fisheries share responsibility for the sustainable use and economic viability of fisheries.

Although departmental fisheries managers have always conferred widely with stakeholders in developing fisheries management plans, and although they continue to do so, the processes for developing these plans have not, until recently, promoted participatory decision making. Resource users have, therefore, felt little responsibility for the outcomes, positive or negative, of decisions. By the same token, a significant number of resource user groups have lacked the organizational capacity to play a more meaningful role in planning and decision making. New approaches are needed for resource users to become effectively involved in the decisions that directly affect their day-to-day operations especially if they are to become accountable for their decisions.

Moreover, since fisheries resources are managed for the benefit of all Canadians, even people who are not resource users need opportunities to participate in fisheries policy development.

Four broad strategies will be implemented with a view to empowering and engaging participants in fisheries management decision- and policy-making processes. Specifically, the department will:

- adopt a more inclusive approach to policy planning;
- enable resource users to assume more of a role in operational decisions;
- facilitate Aboriginal participation in policy planning and decision making; and
- support building capacity for resource users to take on new responsibilities.

6.2 Policy Strategies

6.2.1 Adopting a More Inclusive Approach to Policy Planning

Principle

Fisheries management decision-making processes will be more inclusive so that resource users and others will have appropriate opportunities to participate.

Others with an interest in the fishery include organizations or individuals interested in the outcomes of decision making in the management of fisheries, such as crew members of fishing vessels, plant workers, academics, environmental groups or community organizations. The policy forums presented in this Chapter will be opened to participation from any interested individual while acknowledging the importance of the input provided by legitimate organizations.

A **policy forum** brings together—either physically or with the benefit of information and communications technology—representatives from government, resource user groups, public interest organizations and others to discuss and review policy questions and to try to build consensus around them. A policy forum is

Continued on the next page

The development and ongoing review of fisheries management policy will be open to interested parties, including Aboriginal organizations and other resource users, provincial, territorial and local governments, non-governmental organizations, community representatives and scientists.

Fisheries and Oceans Canada will institute new advisory processes, such as policy forums, inviting participants to contribute to the policy dialogue on best use decisions, objectives and strategies for conservation and sustainable use, and broad social and economic objectives. These processes will be an important part of the policy-making process. Resource users and others interested in the Atlantic fisheries could make use of policy forums to prepare common positions on fisheries management issues that would feed into integrated management planning of ocean uses. Discussions at policy forums will be documented and will be made publicly available. Due consideration will be given to the advice provided. Decisions by the department and their rationale will also be made public.

Policy forums may take place regionally or cross-regionally. Use of electronic conferencing and information technologies, notably the Internet, together with more traditional meeting formats, will enhance opportunities for public involvement in a cost-effective and transparent manner.

The willingness of participants to meet in good faith, to make a positive contribution to deliberations and to make an effort to build consensus through the exchange of views is crucial to the success of advisory processes. By the same token, participants need assurances that decisions taken by the department will reflect their contributions.

In **AFPR Phase II**, the Department of Fisheries of Oceans will work with resource users and others to determine the scope of policy forums and how they will work. Specific actions may include:

- developing codes of conduct for participation in policy forums;
- preparing terms of reference that will specify which kinds of policy issues will be discussed in policy forums; and
- establishing standards and protocols on how consultations will be undertaken and determining the structure of the process, its time-lines, and the roles and responsibilities of participants.

6.2.2 Enabling Resource Users to Assume More of a Role in Operational Decisions

an open and transparent advisory process that provides recommendations on specific policy issues. Although it is not a decision-making body, it will be an important part of the policy-making process.

Resource users most directly involved in the exploitation of specific stocks, and the legitimate organizations that represent them, should have the most direct say in the day-to-day management of those activities. As explained in the Introduction, resource users are holders of commercial licences, quota holders, Aboriginal groups with communal licences, processors who hold fishing licences, recreational fishers and aquaculturists who use wild fish stocks. The Provinces and Nunavut will also be invited to be part of operational decision-making processes consistent with the spirit of the *Agreement on Interjurisdictional Cooperation with Respect to Fisheries and Aquaculture*.

Principle

Operational decision making affecting specific fisheries will normally be made as close to those fisheries as possible, and will primarily involve resource users.

The new Atlantic fisheries management framework will therefore encourage resource users and the legitimate organizations that represent them, to assume a greater role in operational decision-making processes, in accordance with their capacity and degree of interest, and will hold them accountable for their choices. Resource users should be prepared to bear the incremental costs of the changes they propose. Decisions relating to operations will be constrained by certain limitations and the decision-making process will be designed to ensure that others who might be affected are also able to voice their views.

Initially, for specific fisheries, participation by resource users at the operational level will take place through the continuing development of fisheries management planning processes. In the longer term, additional operational-level processes may be developed.

In the medium to long term, as resource users increase their ability to assume management responsibilities and as they demonstrate their commitment to sustainability, the department plans to delegate authority over specific decision-making areas to them. Legislative changes may be required.

Operational decisions relate to the management of specific fisheries (e.g., production of the fisheries management plans, opening and closing dates, gear specifications).

In **AFPR Phase II**, the department will develop policies to foster greater participation in operational decision making by resource users and will develop appropriate accountability mechanisms. Specific actions may include:

- determining how information and communications technologies and procedures could be used to facilitate input and participation in operational planning by resource users, given the costs and practical constraints on direct participation across widely dispersed regions;
- identifying administrative responsibilities that could gradually be delegated to resource users;
- articulating a set of limitations, based on those presented in section 4.2.2, to circumscribe greater participation in decision making;
- determining how incremental costs should be calculated;
- developing indicators to evaluate how resource users are meeting the goals set out in their fisheries management plans; and
- developing tools and identifying mechanisms for monitoring the outcomes of fisheries management plans for regular public reporting.

6.2.3 Facilitating Aboriginal Participation in Policy Planning and Decision Making

Building sustainable fisheries on Canada's Atlantic coast is a challenge that all resource users must meet together. Over the years, the courts have clarified certain aspects of Aboriginal and treaty rights as they relate to the fisheries. Recent land claim agreements have also redefined the relationship between the federal government and some Aboriginal peoples, particularly in the North, as well as their respective responsibilities with regard to the fisheries. Both processes have resulted in increased Aboriginal participation in the fisheries.

Principle

Fisheries management decision-making processes will provide opportunities for increased Aboriginal participation and involvement.

This framework envisions Atlantic fisheries characterized by collaboration between Aboriginal communities, non-Aboriginal resource users and Fisheries and Oceans Canada in fisheries management decision-making processes to ensure the sustainable use of fishery resources. In the longer term, the department anticipates that Aboriginal and non-Aboriginal resource users will cooperate in such operational level processes as the fisheries management planning process to manage the fisheries on which they depend.

In the short and medium term, through programs such as the *Aboriginal Aquatic Resource and Oceans Management Program* and the *Aboriginal Fisheries Strategy*, the department will be working to increase the organizational capacity of Aboriginal communities so that they can be effectively involved, both at the community and aggregate level, in the management of the Atlantic fisheries. These initiatives will help Aboriginal communities to develop organizational structures and capacity in the Aboriginal fisheries to strengthen their participation in the various aspects of fisheries management. The department will encourage these communities to take advantage of economies of scale and, when possible, to establish multi-community representation to participate in the department's planning and decision-making processes.

In **AFPR Phase II**, Fisheries and Oceans Canada will work with Aboriginal communities and other resource users to implement this strategy. Specific actions may include:

- continue to design programs in order to increase the organizational capacity of Aboriginal communities so that they can be effectively involved, both at the community and aggregate level, in the management of the Atlantic fisheries;
- providing opportunities for the participation of Aboriginal communities in decision-making processes, both at the policy and operational levels; and
- determining arrangements that could accommodate Aboriginal participation in policy planning and decision making in the medium and long term, recognizing that, ultimately, all resource users will have to be involved together in decision-making processes.

6.2.4 Building Capacity to Enable Resource Users to Take on New Responsibilities

Sharing responsibility and decision-making power over fisheries management with resource users will require a comprehensive and dedicated effort. All governments, along with the industry, will need to provide assistance to further the development of legitimate organizations and to build knowledge and skills where needed. Some of the changes required to enable resource users to take on new roles and greater responsibilities in managing their fisheries

Capacity includes individual and organizational knowledge, skills and resources needed for resource user groups and their members, as well as other interested parties, to be involved in decision-making processes. It also includes the conditions necessary for these organizations to participate in decision-making processes.

Co-management means the sharing of responsibility and accountability for results between Fisheries and Oceans Canada and resource users, and in time and with the required legislative amendments, the sharing of authority for fisheries management.

are outside the mandate of Fisheries and Oceans Canada. Legislative changes and the development of new policy instruments, for example, will require input from other federal departments as well as from provincial and territorial governments. Other changes will require concerted effort from all concerned.

Some federal, provincial and territorial departments and agencies have undertaken targeted capacity-building programs and have developed experience and expertise in providing assistance to community and industry organizations. Fisheries and Oceans Canada can assist resource user groups by supporting efforts that increase their capacity to participate in new processes, including co-management and participation in the development of integrated management plans for ocean or coastal management areas.

As explained below, capacity building is a gradual process. Two examples of strategies to assist capacity building are the professionalization of fish harvesters and the elaboration of criteria to define legitimate organizations.

The Professionalization of Fish Harvesters

Professionalization is an industry-led initiative supported by the federal and provincial governments. At the federal level, Human Resources Development Canada funds and works in collaboration with three distinct Sector Councils (the Canadian Council of Professional Fish Harvesters, the Canadian Aquaculture Industry Alliance and the National Seafood Sector) on the human resources and skills and learning challenges faced by fisheries industries.

In some provinces, harvesters have reached advanced stages of organization; certification boards are in place and mandatory training standards have been developed for new entrants into the fisheries. In other regions, harvester organizations and Aboriginal groups are developing their own approaches.

Fisheries and Oceans Canada supports professionalization because it represents a long-term approach to building the knowledge and skills required for health and safety, conservation and co-management by and among resource users. Professionalization also contributes to the self-reliance of fish harvesters and strengthens industry organizations.

Developing Criteria to Define Legitimate Fisheries Organizations

Legitimate organizations are those that represent a significant proportion of resource users within their regions, fleets or industry sectors. They are governed by democratic procedures and are accountable to the broad membership. Such organizations are also expected to represent their members' interests in a responsible and consistent manner. They will be registered or incorporated societies and therefore subject to public regulation, and they will normally be financed to a significant degree by members themselves. Groups interested in partnering with Fisheries and Oceans Canada through a co-management approach or other arrangements need to meet these requirements.

With respect to Aboriginal communities, it will be important to define the appropriate form of representation for specific decision-making processes. The department will work with Aboriginal groups to support their efforts to develop capacity to participate fully in fisheries management decision-making processes.

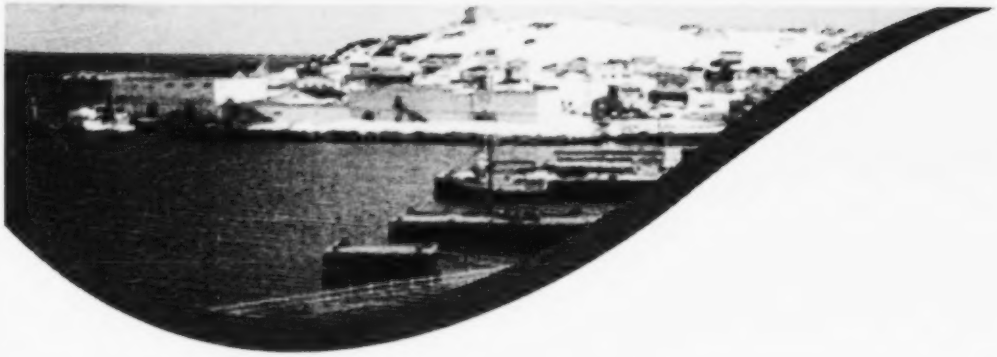
Gradual Change

Advisory and co-management structures and processes in the Atlantic fisheries have evolved over many years as resource users have built capacity to manage their own affairs and as new regulatory and policy approaches have taken shape. Some resource user groups are ready to manage the fisheries they exploit, while others are still getting organized. It would be counterproductive to take a one-size-fits-all approach to co-management and to force resource users to take on responsibilities they are not ready to handle.

Policies and procedures to share fisheries management responsibilities will be designed and implemented through full consultation and transparent decision making. All interested parties will have opportunities to express their views on both the direction and the pace of change.

In **AFPR Phase II**, within its specific mandate and resources, Fisheries and Oceans Canada will help resource users build capacity to participate in fisheries management decision-making processes. Specific actions may include:

- exploring options to collaborate with other federal departments, provincial and territorial governments, and resource users to develop a strategy to build capacity for co-management of fisheries;
- supporting research in areas related to the ongoing organizational and human resources development issues faced by resource users;
- aligning licensing policies with professional standards as developed in the course of the professionalization initiative;
- working with resource user groups and other interested parties to establish fair, manageable and inclusive criteria for defining the types of organizations that can legitimately participate in fisheries management processes; and
- working with Aboriginal communities to ensure that their interests are effectively represented and taken into account in fisheries management decision-making processes.



Conclusion

7.1 Clear Vision and Objectives

The policy framework affirms that conservation and sustainable use of the fisheries is the most important priority and overarching objective for fisheries management on Canada's Atlantic coast. Threats to conservation are a serious challenge for fisheries management, and the responsibility for addressing this challenge must be shared. Other challenges to be addressed include excess participation in the fisheries, achieving greater self-reliance on the part of resource users, the need for more flexibility in decision making, the need to develop a stable access and allocation approach, and the need to adopt more inclusive decision-making processes. This framework seeks to respond to those challenges, articulating a vision and objectives for fisheries management. It sets out principles to guide decision making and opens the decision-making process to provide a voice for those who have an interest in the Atlantic fisheries.

Implementing a clear, consistent and stable approach to access and allocation and developing transparent decision-making processes will create appropriate conditions for the shared stewardship of fisheries resources. As resource users and others with a stake in the fisheries become more effective stewards of the resource, the Atlantic fisheries will become self-reliant and economically viable. This, in a nutshell, is the reasoning that underpins the framework.

7.2 Moving Forward

7.2.1 Scope of the Framework

This policy framework will act as a guide for fisheries management decision making over the long term. It will apply to all those who participate in or have an interest in fisheries on Canada's Atlantic coast. The goal is to create an inclusive climate that fosters responsible decision making. As the framework is implemented, Fisheries and Oceans Canada's role in fisheries management will evolve from one largely taken up with day-to-day management of fleets and fishing activities to one concerned primarily with developing policy, setting overall direction and ensuring compliance with conservation standards.

The policy framework has not been created in isolation. Other departmental initiatives must be considered in conjunction with the framework. The broader departmental agenda includes, among other considerations, implementing *Canada's Oceans Strategy* (of which a key component is integrated management), applying Fisheries and Oceans Canada's *Aquaculture Policy Framework* and *Canada's Policy for Recreational Fisheries* and enhancing the department's relationship with Aboriginal groups.

7.2.2 Collaboration on the Policy Framework for the Management of the Atlantic Fisheries

Pursuing the vision for the Atlantic fisheries will require a collaborative effort involving Fisheries and Oceans Canada, other federal departments, other governments, Aboriginal groups, resource users, coastal communities and others. Fisheries and Oceans Canada will play its part by focusing on conservation and sustainable use, by providing resource users with the flexibility they need to manage their own activities most effectively, by providing a more stable access and allocation approach, and by developing more inclusive decision-making processes.

Other federal departments have a significant role to play in the economic and social development of Atlantic coastal communities. Provincial and territorial governments can contribute through their responsibilities for the processing and aquaculture industries, managing the marketing of fish and fish products, and helping to build organizational capacity among resource user groups.

Where appropriate, resource users will assume greater responsibilities for decision making through local fleet planning, coordination of different fleet sectors and fisheries, and preparation and implementation of fisheries management plans at the local, regional and cross-regional level. Over time, resource users will be encouraged to take on more responsibility for operational decision making and outcomes, as specific fisheries management functions are shared with, and perhaps eventually delegated to, resource users. These changes may require legislative change.

Another priority is broader participation by representatives from resource user groups, fishing communities, local governments and the general public in fisheries management decision-making processes that affect them. When discussions take place on broader issues, those with an interest in the Atlantic fisheries will be invited to participate in the policy planning processes through policy forums.

7.2.3 Phase II

This policy framework marks the end of Phase I of the AFPR. Phase II of the AFPR will involve putting this policy framework into operation. Fisheries and Oceans Canada and resource users will work together to implement the strategies described in this framework and achieve its objectives. The framework will build on work that has already started, serving as a catalyst for change.

The department will lead the implementation of the policy framework and ensure consistency in interpretation of the vision, objectives and principles. The principles will provide guidance; there will be plenty of room for flexibility in developing programs specific to the needs of local fisheries. Furthermore, fleets and resource user groups will be able to develop their own practices within the limitations set out in the policy framework.

Some important structural changes will be required to fully implement this policy framework. Although some existing mechanisms for shared decision making work well and others can be built on, broad policy and planning mechanisms are needed to bring the various interests in the Atlantic fisheries together so they can develop responses to a wider range of concerns. The policy framework will also provide a basis for examining any proposed legislative reform to ensure that the vision, objectives and principles are reflected in a revised *Fisheries Act*.

As specific operational programs or initiatives are put in place, the degree and pace of change will be determined in discussions with resource user groups. Programs and policies will be refined over time through existing mechanisms such as the fisheries management planning processes and local fleet planning boards. Other approaches to assist resource users in managing fisheries are already under development. These include renewed mechanisms for engaging Aboriginal groups and the development of fisheries management plans that are based on clear and measurable objectives.

7.2.4 The Path Ahead

This framework creates a standard against which developments in fisheries management can be measured. One important aspect of creating good public policy is providing mechanisms to ensure that new policies remain relevant even as times and conditions change. To this end, Fisheries and Oceans Canada plans to review this policy framework within the decade, and the Phase II policy forums will be expected to develop an orderly process for such a review. This framework serves as a challenge to all interested parties to come forward with good will and good ideas to build better, stronger, sustainable Atlantic fisheries for the benefit of current and future generations.

Appendix 1

Source Documents

"A New Access Framework of Principles and Criteria," in *Response to the Report of the Independent Panel on Access Criteria for the Atlantic Coast Commercial Fishery*. Fisheries and Oceans Canada, November 2002.

A New Direction for Canada's Pacific Salmon Fishery. Fisheries and Oceans Canada, October 1998.

Aboriginal Fisheries Strategy. Fisheries and Oceans Canada Web site, **www.dfo-mpo.gc.ca/communic/ fish_man/afs_e.htm**

Agreement on Interjurisdictional Cooperation with Respect to Fisheries and Aquaculture. Canadian Intergovernmental Conference Secretariat, April 12, 1999.

Canada's Policy for Recreational Fisheries. Fisheries and Oceans Canada, 1987.

Canada's Oceans Strategy: Our Oceans, Our Future. Fisheries and Oceans Canada, 2002.

Canadian Code of Conduct for Responsible Fishing Operations. Fisheries and Oceans Canada, Consensus Code, 1998.

Commercial Fisheries Licensing Policy for Eastern Canada. Fisheries and Oceans Canada, 1996.

DFO's Aquaculture Policy Framework. Fisheries and Oceans Canada, 2002.

Fisheries Management Policies on Canada's Atlantic Coast: A summary of policies, acts and agreements in effect on September 30, 2001 that pertain to the management of the fisheries on Canada's Atlantic Coast. Fisheries and Oceans Canada, September 2001.

Framework and Guidelines for Implementing the Co-Management Approach, Volume 1: Context, Concept and Principles. Fisheries and Oceans Canada, January 1999.

Framework and Guidelines for Implementing the Co-Management Approach, Volume 2: Integrated Fisheries Management Plans. Fisheries and Oceans Canada, January 1999.

Framework and Guidelines for Implementing the Co-Management Approach, Volume 3: Joint Project Agreements. Fisheries and Oceans Canada, January 1999.

New Emerging Fisheries Policy. Fisheries and Oceans Canada, September 2001.

Policy For Canada's Commercial Fisheries. Fisheries and Marine Services, Department of the Environment, May 1976.

Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries. Fisheries and Oceans Canada, December 2003.

Report of the Independent Panel on Access Criteria for the Atlantic Coast Commercial Fishery. Fisheries and Oceans Canada, March 2002.

Response to the Report of the Independent Panel on Access Criteria for the Atlantic Coast Commercial Fishery. Fisheries and Oceans Canada, November 2002.

Strategic Plan. Fisheries and Oceans Canada, March 2000.

Task Force on Atlantic Fisheries Report (Kirby). Fisheries and Oceans Canada, 1982

The Management of Fisheries on Canada's Atlantic Coast: A Discussion Document on Policy Direction and Principles. Fisheries and Oceans Canada, February 2001.

The Marshall Response Initiative. Fisheries and Oceans Web site, **www.dfo-mpo.gc.ca/communic/marshall/marshall_e.htm**

"What We Heard": Summaries of Public Consultations Conducted by the Atlantic Fisheries Policy Review, March-April, 2001. Fisheries and Oceans Canada, August 2001.

Appendix 2

Glossary

This appendix includes terms defined within the framework and other useful fisheries management terms.

Access

The opportunity to harvest or use fisheries resources, generally permitted by licences or leases issued by Fisheries and Oceans Canada under the authority of the Minister of Fisheries and Oceans. The department must take Aboriginal and treaty rights to fish into account when providing these opportunities.

Allocation

The amount or share of the fisheries resource and/or effort that is distributed or assigned by the Minister of Fisheries and Oceans to those permitted to harvest the resource (see also Enterprise allocation and Quota).

Aquaculturist

A person who practices the controlled cultivation and harvest of aquatic plants or animals (e.g. edible marine algae, clams, oysters and finfish). Aquaculture site operators must have approved leases from DFO or provincial Departments with responsibility for fisheries and aquaculture.

Best use decisions

These decisions concern the access and allocation of fisheries resources among different uses. They also involve the determination of the particular uses of a fisheries resource that will generate the greatest possible public good or best serve the interests of all Canadians.

Biodiversity

Biodiversity, also known as biological diversity, is the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part. It includes diversity within species, between species and of ecosystems.

Capacity

Capacity includes individual and organizational knowledge, skills and resources needed for resource user groups and their members, as well as other interested parties, to be involved in decision-making processes. It also includes the conditions necessary for these organizations to participate in decision-making processes.

Co-management

The sharing of responsibility and accountability for results between Fisheries and Oceans Canada and resource users. Co-management will eventually also encompass the sharing of authority for fisheries management.

Commercial fisher

Any person who participates in an authorized commercial fishery, including skippers and fishermen's helpers.

Community

Community refers to a group of people living in a common place, region or location who are tied together by residence, identity and/or history.

Community of interest

A "community of interest" refers to a group of people with common interests who may or may not reside in the same area.

Conservation

Sustainable use that safeguards ecological processes and genetic diversity for present and future generations.

Core policy or core licence holder

This refers to the "core" designation within the *Commercial Fisheries Licensing Policy for Eastern Canada—1996*. It limits participation and entry in the less-than-65-feet sector to individuals who meet certain criteria so that the total number of core fishers or participants in a fishery remains the same. To qualify as a member of the core group, a licence holder was required, as of December 20, 1995, to meet the following four criteria: be the head of an enterprise; hold key licences; have an attachment to the fishery; and be dependent on the fishery. Qualified new entrants to a fishery may acquire core status only from exiting participants.

Delegated authority

Certain powers and responsibilities delegated by the Minister of Fisheries and Oceans on a time-limited basis, perhaps through contracts or partnering agreements. The delegation of authority for some fisheries management processes may require legislative changes.

Ecosystem

A dynamic complex of plants, animals and micro-organisms and their non-living environment interacting as a functional unit.

Ecosystem-based management

Taking account of species interactions and the interdependencies between species and their habitats when making resource management decisions.

Enterprise allocation

The amount of fish from a particular stock allocated exclusively to a licence holder, usually a corporation. Such an allocation would normally apply to vessels longer than 65 feet.

Fishing licence

An instrument by which the Minister of Fisheries and Oceans, pursuant to discretionary authority under the *Fisheries Act*, grants permission to a person, including an Aboriginal organization, to harvest certain species of fish or marine plants subject to the conditions attached to the licence. This is a temporary grant; licences are issued for a fixed period, usually annually.

Fishing plans or Fisheries Management Plans

Fishing plans or Fisheries Management Plans (FMPs) describe fishery management measures and allocations, and lay out the rules for fishing during a specified period of time, for a certain species, in certain areas or for a particular fleet. FMPs incorporate conservation, management and scientific requirements for a fishery and also set out the process for implementation of resource management, conservation and protection measures. FMPs also define processes for conferring with clients and stakeholders and define responsibilities and roles of all parties.

Fleet

All fish harvesters who fish out of the same allocation.

Fleet separation policy

The fleet separation policy applies to fishing vessels less than 65 feet in length and separates the harvesting and processing sectors. It does not recommend the issuance of new inshore licences to corporations, including processing companies.

Genetic diversity

The property of a species, in which members vary in their heritable content among individuals and among populations. Genetic diversity allows the species to adapt over time to changing environmental conditions. Sometimes the term is also used to describe genetic differences between species.

Governance

The various systems of authority and decision making in fisheries management combined. It also includes participation in consultation, planning and decision-making processes by resource users and other interested parties.

Inshore

Refers to the fishing sector where fishers are restricted to using vessels less than 19.8 metres or 65 feet in length.

Individual Quota or Individual Transferable Quota

Under an Individual Quota (IQ) management system, the available catch (quota for a particular stock) or portion of the available catch is divided among individual fishers, fishing units or fishing enterprises before the fishing season. Each individual unit or enterprise is assigned a fixed share of the quota assigned to the fleet, either as a specific quantity or as a percentage of the quota. This is done for one year or for a longer period. An Individual Transferable Quota (ITQ) is transferable if the quota share can be temporarily or permanently leased or traded to another licence holder. IQ management generally applies to vessels under 65 feet long.

Integrated Management

Integrated Management (IM) describes an ecosystem-based approach to management that aims to ensure the sustainable development of coastal and marine resources. It is a planning process in which interested parties, stakeholders and regulators reach general agreement on the best mix of conservation, sustainable resource use and economic development for coastal and marine areas. Goals include sustainable use and economic diversification.

Licence

See "Fishing licence."

Licence holder

The holder of any species licence that permits fishing.

Limited entry

The mechanism by which Fisheries and Oceans Canada controls the number of licence holders who participate in any given fishery.

Multi licence / multi species

A licence holder having more than one licence, where each licence is for a different species (e.g. a fisher who holds a lobster and a herring licence), or gear (e.g. a fisher who holds a herring gillnet licence and a herring purse seine licence).

Objectives-based management

A structured, systematic and inclusive approach incorporating precaution and ecosystem-based management. It envisages that fisheries management plans will be developed by teams made up of resource users and Department of Fisheries and Oceans personnel involved in science, enforcement and resource management.

Operational decisions

Decisions that relate to the management of specific fisheries (e.g., production of the fisheries management plans, opening and closing dates, gear specifications).

Others with an interest in the fishery

Organizations or individuals interested in the outcomes of decision-making in the management of fisheries, such as processing companies, crew members of fishing vessels, plant workers, fish buyers, academics, environmental groups or community organizations. The policy forums presented in Chapter 6 will be opened to participation from any interested individual while acknowledging the importance of the input provided by legitimate organizations.

Owner-operator policy

Applies to licence holders using vessels less than 65 feet long. It requires licence holders to be present on their vessel and personally fish their licences.

Participatory decision making

A decision-making process whereby resource users and other interested parties provide meaningful input into fisheries management decision making through two types of transparent, rules-based mechanisms: fisheries management planning processes and policy forums. All decisions made through either of these mechanisms are subject to regulations and conservation requirements, and to final approval by the Minister.

Policy forum

A policy forum brings together—either physically or with the benefit of information and communications technology—representatives from government, resource user groups, public interest organizations and others to discuss and review policy questions and to try to build consensus around them. A policy forum is an open and transparent advisory process that provides recommendations on specific policy issues. Although it is not a decision-making body, it will be an important part of the policy-making process.

Policy planning

Policy planning provides overall goals and acceptable ways to achieve those goals. Policy is intended to guide decisions and give them consistency.

Precautionary decision making

A special category within conservation-oriented decision making, to be applied when there is high scientific uncertainty and risk of serious or irreversible harm.

Quota

The percentage share of the Total Allowable Catch that is allocated to a specific group or to an enterprise (i.e., a fleet or fleet sector, a defined set of resource users or an individual).

Recreational fisher

A fisher who participates in a fishery in which fish can be either released or used for personal consumption (i.e., not sold). "Recreational fisher" also applies to a person who participates in the non-Aboriginal subsistence or food fishery.

Reference point

Reference points are key stock or ecosystem conditions, defined as specific values of important properties of a resource such as the size and productivity of the resource, to be used as guides in making fisheries management decisions.

A **limit reference point** is a stock or ecosystem condition beyond which the risk of serious or irreversible harm is unacceptable. Decision-makers should be highly risk-averse relative to limit reference points.

Targets are reference points at which benefits sought by resource users can be obtained on a sustainable basis. Decision-making should be risk-neutral with regard to achieving targets.

Regional advisory process

Regional advisory process (RAP) describes the process by which scientists and stakeholders meet to discuss and peer-review assessments of stocks and their environments.

Resource share

The percentage of a Total Allowable Catch that is allocated to a specific group or enterprise (i.e., a fleet or fleet sector, a defined set of resource users, or an individual).

Resource users

Holders of commercial licences, quota holders, Aboriginal groups with communal licences, processors who hold fishing licences, recreational fishers and aquaculturists who use wild fish stocks.

Species at Risk Act

The *Species at Risk Act*, which entered into force in June 2003, seeks to prevent wildlife species from becoming extirpated or extinct, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and to manage species of special concern to prevent them from becoming endangered or threatened.

Stewardship

The care, supervision or management of something, especially the careful and responsible management of something entrusted to one's care.

Stock

All individuals of one species, or a species complex, found in a defined area at a specific time. A "stock" is the basic unit for fisheries management; management measures should have the same effect on all individuals in a stock.

Stock assessment

The determination of the status (abundance, distribution, age structure, ecosystem influences, etc.) of a particular stock, usually in support of the conservation and management of the stock.

Sustainable development

Development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. It implies a specific commitment to the management of coastal regions and resources in an environmentally responsible manner that defines and acknowledges risk.

Total Allowable Catch (TAC)

The total amount of fish allowed to be caught from a particular stock by all resource users over a particular period of time.

Trust Agreements

Trust agreements are legally binding private contracts sometimes used to transfer the beneficial interest associated to a licence from a licence holder to another party. Fisheries and Oceans Canada is not a party to such agreements and does not condone them.